



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201144038

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 12 2011

Uniform Issue List: 408.03-00

T:EP:RA:T1

Legend:

Taxpayer A	=
Financial Institution B	=
Financial Institution C	=
Financial Institution D	=
IRA X	=
Amount 1	=

Dear :

This is in response to a letter received March 17, 2011, as supplemented by faxed correspondence dated May 2, 2011, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d) was due to Financial Institution B's refusal to accept funds for rollover even though the 60 day period had not expired.

Taxpayer A represents that he was the owner of IRA X, a qualified individual retirement arrangement ("IRA") established and maintained at Financial Institution B under the rules of section 408 of the Code. Taxpayer A represents that he intended to purchase a home and contacted several banks and mortgage companies for advice on how to obtain the necessary funds to do so. Taxpayer A further represents that he was instructed by representatives of Financial Institutions B and D to withdraw funds from IRA X to use for the purchase of the home and to obtain a bridge loan in the amount of Amount 1 to repay IRA X within the 60-day period.

On January 7, 2008, Taxpayer A represents that he instructed his broker at Financial Institution B to wire transfer Amount 1 from IRA X to a taxable account at Financial Institution C for the purpose of using the funds to purchase a home. Taxpayer A further represents that on January 10, 2008, Amount 1 was transferred from IRA X to Financial Institution C. Taxpayer A further represents that he received approval from Financial Institution D for the loan to return Amount 1 to IRA X on March 7, 2008.

Taxpayer A represents that on the morning of March 7, 2008, 57 days after receiving Amount 1, he was contacted by his broker at Financial Institution B, who left him a message that Amount 1 must be redeposited into IRA X that day to comply with the 60-day rollover period. Taxpayer A stated that when he received the message that afternoon he contacted the broker to redeposit Amount 1, but was told by the broker that it was too late to redeposit the funds into IRA X. Taxpayer A represents that the broker refused to accept the loan funds for redeposit into IRA X, stating that because the loan funds would not post to IRA X until after expiration of the 60-day rollover period, Financial Institution B would not accept the funds. Taxpayer A has submitted documentation from his broker dated January 10, 2010, which corroborates and substantiates the information provided by Taxpayer A.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a rollover of Amount 1 within the 60 day period prescribed by section 408(d)(3) of the Code was due to the refusal of Financial Institution B to accept the funds for rollover even though the 60 day period had not yet expired.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such IRA contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

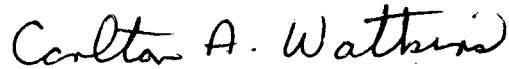
This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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If you wish to inquire about this ruling, please contact XXXXXXXXXXXXXXXX
(Government Identification Number XX-XXXXX) by phone at (XXX) XXX-XXXX or by
fax at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

- ▶ Deleted copy of ruling letter
- ▶ Notice of Intention to Disclose